

NEWMAN FITCH ALTHEIM MYERS, P.C.

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CHARLES DEWEY COLE, JR***
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* ALSO ADMITTED IN NJ
** ALSO ADMITTED IN CA
*** ALSO ADMITTED IN NJ, DC & TX

January 29, 2008

VIA ECF
Honorable Frank Maas
Room 740
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: Chatie Graham v. J.B. Hunt Transport, et. al.
07-CV-11446 (RMB)(FM)
Our Ref: NJBH 16388

Dear Judge Maas:

We are the attorneys for defendants J.B. Hunt Transport and James B. Tabor, and we write to ask that the court find that this case was properly removed to federal court. This court has jurisdiction over this matter under the diversity-of-citizenship statute. U.S.C. §§ 1332(a), 1441(a). Not only are the parties diverse, but there is a reasonable probability that the amount in controversy exceeds \$75,000.

The plaintiff filed a complaint alleging “severe and permanent personal injuries” as a result of a motor-vehicle accident involving the defendants’ tractor trailer. *See Exhibit A* (notice of removal and complaint) at ¶ 23. Pursuant to New York’s no fault law, the plaintiff claims (1) “serious injury” and (2) economic loss in excess of basic economic loss. *Id.* at ¶ 25. Finally, the plaintiff claims property damage in the amount of \$25,000.

On December 20, 2007, the defendants removed this action to the United States District Court for the Southern District of New York under its diversity-of-citizenship jurisdiction. *See Exhibit A*. In the notice of removal, the defendants set forth that plaintiff is a citizen of the State of New York, that J.B. Hunt Transport, Inc. is a corporation incorporated in the State of Georgia, with its principal place of business in the State of Arkansas, and that James B. Tabor, the employee driver of the tractor-trailer, is a citizen of the Commonwealth of Kentucky. *Id.* at ¶¶ 2-3. The defendants alleged that the plaintiff claimed damages in excess of

NEWMAN FITCH ALTHEIM MYERS, P.C.

\$75,000. *Id.* at ¶ 4. At the initial pretrial conference held January 11, 2008, Judge Richard M. Berman directed all parties to submit letter briefs as to whether diversity-of-citizenship jurisdiction existed, and on January 29, 2008, all parties consented to determination of the issue by the Magistrate Judge. *See Exhibit B.*

The burden of establishing that jurisdiction exists lies with the removing defendant. *See Mehlenbacher v. Akzo Nobel Salt, Inc.*, 216 F.3d 291, 296 (2nd Cir. 2000). Plaintiff's complaint sets forth \$25,000 in property damage but is silent as to the damages sought for personal injuries. This is because the Civil Practice Law and Rules section 3017(c) forbids the inclusion of an *ad damnum* clause in a personal injury case like this one. When the complaint does not specify an amount in controversy, the court looks to the notice of removal itself to see if the jurisdictional amount is alleged. *See Williams v. Best Buy Co.*, 269 F.3d 1316, 1319 (11th Cir. 2001). The notice of removal in this case alleges in paragraph 4, "[t]he plaintiff seeks damages of more than \$75,000 and sought damages of more than \$75,000 when this action was started in state court." **Exhibit A**, notice of removal at ¶ 4.

That allegation of the amount in controversy is facially adequate because it is both "a short and plain statement of the grounds upon which the court's jurisdiction depends," *cf.* Fed. R. Civ. P. 8(a), and patterned on Official Form 2(a), which is "sufficient under the rules and [is] intended to indicate the simplicity and brevity of statement that the rules contemplate," Fed. R. Civ. P. 84. Because the notice of removal is "signed pursuant to Rule 11 of the Federal Rules of Civil Procedure," 28 U.S.C. § 1446(a), the court is assured that the amount-in-controversy allegation is warranted by existing law and is supported. *See* Fed. R. Civ. P. 11(b).

Were the court to look behind the complaint and see if the amount in controversy exceeds \$75,000, it should engage in fact-finding and receive evidence to establish whether jurisdiction exists. A good example of this practice exists in *Williams v. Best Buy*. There, the plaintiff sued to recover for a trip and fall at one of the defendant's stores. 269 F.3d at 1318. The plaintiff brought suit in state court, and the defendant removed the matter to federal court. *Id.* On appeal, the Eleventh Circuit *sua sponte* found that the record below failed to establish the amount in controversy sufficient to warrant subject-matter jurisdiction. *Id.* Rather than dismissing the matter outright, the Eleventh Circuit held that "[b]ecause Best Buy's notice of removal clearly asserted that the jurisdictional amount was satisfied, Best Buy should be afforded an opportunity to submit evidence in support of its assertion." *Id.* at 1321.

In deciding that the defendant was entitled to submit evidence in support of its allegations that over \$75,000 was in controversy, the *Williams* court relied on the Second Circuit case of *United Food & Commercial Workers Union v. Centermark Properties Meridian*, 30 F.3d 298 (2nd Cir. 1994), which stated that where a removing defendant alleges diversity jurisdiction, it has the right to prove the amount in controversy by submitting evidence:

Facing a similar situation, the Second Circuit held that the proper course of action under such circumstances is to remand the case to the district court for factual finds on the amount in controversy. The *United Food* court reasoned that, had the plaintiff challenged the amount in controversy by filing a motion to remand in the district court, 'the parties, under the direction of the district court,

NEWMAN FITCH ALTHEIM MYERS, P.C.

would have had an opportunity to supplement the record to allow for an informed decision on the issue.’ Therefore, the Second Circuit found it ‘only fair ... that the issue be remanded to the district court to allow the parties to submit evidence on the amount in controversy and to give defendants an opportunity to meet their burden as to this requirement of diversity jurisdiction.

Williams, 269 F.3d at 1320-21, *citing to United Food*, 30 F.3d at 306. In *United Food*, the court determined that “this record contains no supplementary submissions or estimates of what costs were incurred,” and therefore found that a fact-finding, based on evidentiary submissions, was necessary. 30 F.3d at 306. Likewise in *Mehlenbacher*, the Second Circuit remanded a case to the district court for a factual determination as to the amount in controversy: “[b]ecause, on this record, we are unable to determine whether any or all of the plaintiffs met the required \$50,000 amount in controversy, we must remand to the district court to give Akzo an opportunity to make that showing.” 216 F.3d 291 at 298.¹

In proving the amount in controversy, the removing defendant is not charged with demonstrating that plaintiff must be able to recover \$75,000, but rather, defendant is only required to establish a reasonable probability that plaintiff can recover over \$75,000. *See Frederico v. Home Depot*, 507 F.3d 188, 195, 197 (3rd Cir. 2007)(“[A] case must be dismissed or remanded if it appears to a legal certainty that the plaintiff *cannot* recover more than the jurisdictional amount of \$75,000. The rule does not require the removing defendant to prove to a legal certainty the plaintiff can recover \$75,000—a substantially different standard”), *citing to St. Paul Mercury Indemnity Co. v. Red Cab Co.*[“*Red Cab*”], 303 U.S. 283, 58 S. Ct. 586, 82 L. Ed. 845 (1938), *Samuel-Bassett v. Kia Motors America*, 357 F.3d 392, 397-98 (3rd Cir. 2004), *Juarbe v. K-Mart Corp.*, 2005 WL 1994010, *1 (S.D.N.Y. 2005), *Raspa v. Home Depot*, 2007 WL 4569887, *6 (D.N.J. 2007); *cf. Scherer v. The Equitable Life Ass. Soc. of the U.S.*, 347 F.3d 394, 397 (2nd Cir. 2003).

Moreover, it is generally accepted that multiple claims by the same plaintiff arising out of the same transaction can be viewed collectively in determining whether diversity jurisdiction exists. *See Allen v. Toyota Motor Sales*, 155 Fed. Appx. 480, 482 (11th Cir. 2005)(reviewing all components of plaintiff’s various damage claims to determine whether removing defendant had established the requisite amount in controversy), *Frederico*, 507 F.3d at 198-99 (finding removing defendant had met the amount in controversy requirement by adding together the compensatory damages, punitive damages and attorneys fees).

While no formal hearing has been ordered in this case, defendants hereby respectfully submit plaintiff’s medical records documenting her injuries. *See Exhibit C*. Plaintiff’s medical injuries allegedly attributable to the accident include a partial tear of the rotator cuff tendon, an arthroscopic surgery conducted on or about March 28, 2007, and three bulging cervical discs. Such injuries are frequently the subject of verdicts in excess of \$75,000

¹ *Mehlenbacher* also distinguished *Lupo v. Human Affairs Int’l, Inc.*, 28 F.3d 269 (2nd Cir. 1994). There, the removal notice had improperly asserted federal question jurisdiction, and did not address diversity until plaintiff’s appeal, which had occurred when the litigation was in its 3rd year. There, the court summarily remanded the case to state court. Like *Mehlenbacher*, this matter is new, and diversity is the only basis for the removal. Hence *Lupo* is distinguishable and *Mehlenbacher* controls.

NEWMAN FITCH ALTHEIM MYERS, P.C.

in New York. *See Guillory v. Nautilus Real Estate, Inc.*, 208 A.D.2d 336, 624 N.Y.S.2d 110 (1st Dept. 1995)(\$1,200,000), *Bernstein v. Red Apple Supermarkets*, 227 A.D.2d 264 (1st Dept. 1996)(\$1,100,000), *Klimowich v. State of New York*, Claim No. 99495, Filed 10/10/02 (Ct. Claims New York)(\$200,450). Indeed, considering the plaintiff's claims of (1) severe and permanent personal injuries, (2) "severe injury" under the no fault law,² (3) economic damages in excess of basic economic loss,³ and (4) property damage in the amount of \$25,000, it is respectfully submitted that the amount in controversy unequivocally exceeds \$75,000. Indeed, plaintiff's demand at the pretrial conference (~\$185,000) was well in excess of \$75,000.

Therefore, we respectfully ask this Court to find that the amount in controversy exceeds \$75,000 and that diversity jurisdiction exists in this matter.

Respectfully,

NEWMAN FITCH ALTHEIM MYERS

/s

Robert A. Fitch

RAF/DPT

cc: **Via Fax (212-962-5050) and Regular Mail**
MARK E. SEITELMAN LAW OFFICES, P.C.
Attorneys for the Plaintiff
111 Broadway, 9th Floor
New York, New York 10006
(212) 962-2626

VIA ECF
United States District Court
Southern District

² Section 5102(d) of the New York State Insurance Law sets forth that "[s]erious injury" means a personal injury which results in death; dismemberment; significant disfigurement; a fracture; loss of a fetus; permanent loss of use of a body organ, member, function or system; permanent consequential limitation of use of a body organ or member; significant limitation of use of a body function or system; or a medically determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all of the material acts which constitute such person's usual and customary daily activities for not less than ninety days during the one hundred eighty days immediately following the occurrence of the injury or impairment."

³ Section 5102(a) of the Insurance Law sets forth that basic economic loss is \$50,000. *See also Johnson-Kamara v. W. Chacon Trucking*, 2006 WL 336041, *2 (S.D.N.Y. 2006)(relying on plaintiff's claim that damages exceeded basic economic loss under New York's no fault law in the determination of whether or not defendant had demonstrated the amount in controversy).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CHATIE GRAHAM,

Plaintiff,

-against-

J.B. HUNT TRANSPORT, INC., and
JAMES B. TABOR,

Defendants.

-----X

NOTICE OF REMOVAL

The defendants J.B. Hunt Transport, Inc. and James B. Tabor, removes this action from the Supreme Court, Orange County to the United States District Court for the Southern District of New York.

1. The plaintiff commenced this action against J.B. Hunt Transport, Inc., and James B. Tabor in the Supreme Court of the State of New York, Orange County. A copy of the complaint is attached as **Exhibit A**.

2. The plaintiff, Chatie Graham, is a citizen of the State of New York and was a citizen of the State of New York when this action was started in state court.

3. The defendants are citizens of states other than the State of New York and were citizens of states other than the State of New York when this action was started in state court.

a) J.B. Hunt Transport, Inc. is (and was) a corporation incorporated in the State of Georgia with its principal place of business in the State of Arkansas.

b) James B. Tabor (and was) a citizen of the State of Kentucky.

4. The plaintiff seeks damages of more than \$75,000 and sought damages of more than \$75,000 when this action was started in state court.

5. This court has subject-matter jurisdiction over this action under section 1332(a)(1) of the Judicial Code, 28 U.S.C. § 1332(a)(1), because this action—both now and when it was started—is between citizens of different states and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

6. The defendants may, under section 1441(a) of the Judicial Code, 28 U.S.C. § 1441(a), remove this action to this court because this is a civil action of which the district courts of the United States have original jurisdiction that is brought in a state court

7. All defendants join in the removal of this action to this court.

Dated: New York, New York
December 20, 2007

Robert A. Fitch. (RF2198)
Newman Fitch Altheim Myers, P.C.
Attorneys for Defendant
J.B. Hunt Transport, Inc.
14 Wall Street
New York, New York 10005-2101
(212) 619-4350
JBH 16388

To: MARK E. SEITELMAN LAW OFFICES, P.C.
Attorneys for Plaintiff
111 Broadway, 9th Floor
New York, New York 10006
(212) 962-2626

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
CHATIE GRAHAM,

Plaintiff,

-against-

J.B. HUNT TRANSPORT, INC. and JAMES
B. TABOR,

Defendants.
-----X

Index No.:

Date Purchased: 11/8/07

SUMMONS

2007 - 10872

Plaintiffs designate
Orange County as the
place of trial.

The basis of venue
is: residence of
plaintiff

Plaintiffs reside
at:
22 Edgewood Terrace
Newburgh, NY 12550
County of Orange

To the above named Defendants:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorney(s) within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
October 29, 2007

Mark E. Seitelman
MARK E. SEITELMAN LAW OFFICES, P.C.
Attorneys for Plaintiff(s)
111 Broadway, 9th Floor
New York, New York 10006
(212) 962-2626

TO:

J.B. HUNT TRANSPORT, INC.
4100 South Council
Oklahoma City, OK 73179

JAMES B. TABOR
106 E. Main St.
Bradfordsville, KY 40009

FILED
CLERK
OCT 30 2007
ORIGINAL FILED

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
CHATIE GRAHAM,

Plaintiff,

-against-

VERIFIED COMPLAINT

J.B. HUNT TRANSPORT, INC. and JAMES
B. TABOR,

2007-10872

Defendants.
-----X

Plaintiff, by her attorneys, MARK E. SEITELMAN LAW OFFICES,
P.C., complaining of the Defendants, respectfully alleges, upon
information and belief:

AS AND FOR A FIRST CAUSE OF ACTION

1. At all times herein mentioned, Plaintiff was, and still
are, a resident of the County of Orange, State of New York,
residing at 22 Edgewood Terrace, floor 1, Newburgh, New York 12550.

2. That at all times herein mentioned, the Defendant J.B.
HUNT TRANSPORT, INC. was and still is a foreign business
corporation duly authorized to do business in the State of New
York.

3. That at all times herein mentioned, the Defendant J.B.
HUNT TRANSPORT, INC., maintained an address at P.O. Box 130, 615
J.B. Hunt Corporate Drive, Lowell, Arkansas, 72745.

4. At all times herein mentioned, Defendant JAMES B. TABOR
resided at 106 East Main Street, Bradfordsville, Kentucky 40009.

5. At all times herein mentioned, Defendant JAMES B. TABOR
was a servant, agent and/or employee of defendant J.B. HUNT
TRANSPORT, INC.

6. At all times herein mentioned, Defendant J.B. HUNT

TRANSPORT, INC. was the owner of a motor vehicle with Oklahoma license plate number 2FW778.

7. At all times herein mentioned, Defendant JAMES B. TABOR operated the aforementioned motor vehicle.

8. At all times herein mentioned, Defendant JAMES B. TABOR operated the motor vehicle with the permission and consent of Defendant J.B. HUNT TRANSPORT, INC.

9. At all times herein mentioned, Defendant JAMES B. TABOR operated the aforementioned motor vehicle in the scope of his employment with Defendant J.B. HUNT TRANSPORT, INC.

10. At all times herein mentioned, Defendant JAMES B. TABOR operated the aforementioned motor vehicle in furtherance of the business of Defendant J.B. HUNT TRANSPORT, INC.

11. At all times herein mentioned, Defendant J.B. HUNT TRANSPORT, INC. managed the aforesaid motor vehicle.

12. At all times herein mentioned, Defendant JAMES B. TABOR managed the aforesaid motor vehicle.

13. At all times herein mentioned, Defendant J.B. HUNT TRANSPORT, INC. maintained the aforesaid motor vehicle.

14. At all times herein mentioned, Defendant JAMES B. TABOR maintained the aforesaid motor vehicle.

15. At all times herein mentioned, Plaintiff was the operator of a motor vehicle with New York State license plate number CZL2565.

16. At all times herein mentioned, I-84 West, near Exit 8,

Newburgh, New York, was a public roadway, street and/or thoroughfare.

17. On August 25, 2006, Defendant JAMES B. TABOR was operating the vehicle owned by J.B. HUNT TRANSPORT, INC. at the aforementioned location.

18. On August 25, 2006, Plaintiff was operating her motor vehicle at the aforementioned location.

19. On August 25, 2006, at the aforementioned location, the motor vehicle owned by Defendant J.B. HUNT TRANSPORT, INC. and operated by Defendant JAMES B. TABOR came into contact with the motor vehicle owned and operated by Plaintiff.

20. That as a result of the aforesaid contact, Plaintiff was injured.

21. The aforesaid occurrence was caused wholly and solely by reason of the negligence of the Defendants without any fault or negligence on the part of the Plaintiff contributing thereto.

22. Defendants were negligent, careless and reckless in the ownership, operation, management, maintenance, supervision, use and control of the aforesaid vehicle and the Defendants were otherwise negligent, careless, reckless and grossly negligent under the circumstances then and there prevailing.

23. That by reason of the foregoing, Plaintiff sustained severe and permanent personal injuries; and Plaintiff was otherwise damaged.

24. Plaintiff sustained serious injuries as defined by

Section 5102 (d) of the Insurance Law of the State of New York.

25. Plaintiff sustained serious injuries and economic loss greater than basic economic loss as defined by Section 5104 of the Insurance Law of the State of New York.

26. Plaintiff is not seeking to recover any damages for which Plaintiff has been reimbursed by no-fault insurance and/or for which no-fault insurance is obligated to reimburse Plaintiff. Plaintiff is seeking to recover only those damages not recoverable through no-fault insurance under the facts and circumstances in this action.

27. This action falls within one or more of the exceptions set forth in CPLR Section 1602.

28. That by reason of the foregoing, Plaintiff has been damaged in sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION

29. Plaintiff repeats, reiterates and realleges each and every allegation contained in the First Cause of Action with the same force and effect as though set forth herein at length.

30. On August 25, 2006, plaintiff owned the aforesaid motor vehicle bearing New York License plate number CZL2565.

31. As a result of defendants' negligence, plaintiff sustained property damage to said motor vehicle.

32. As a result, plaintiff has been damaged in the amount of

TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS.

WHEREFORE, plaintiff demands judgment in her favor against defendants, and each of them, on the First Cause of Action in an amount to be determined at trial, and which is in excess of the jurisdictional limits of all lower Courts which would otherwise have jurisdiction, on the Second Cause of Action in the amount of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS, plus an award of interest, costs and disbursements.

Dated: New York, New York
October 29, 2007

Yours, etc.,



MARK E. SEITELMAN, ESQ.
MARK E. SEITELMAN LAW OFFICES, P.C.
Attorneys for Plaintiff
111 Broadway, 9th Floor
New York, NY 10006
(212) 962-2626

Our File No. 06-0376

ATTORNEY'S VERIFICATION

MARK E. SEITELMAN, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am the principal of MARK E. SEITELMAN LAW OFFICES, P.C., attorneys of record for plaintiff. I have read the annexed Complaint and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

The reason this verification is made by me and not plaintiff is that plaintiff is not presently in the county wherein the attorneys for the plaintiff maintain their offices.

Dated: New York, New York
October 29, 2007



MARK E. SEITELMAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

CHATIE GRAHAM,

Plaintiff,

RULE 7.1 STATEMENT

-against-

J.B. HUNT TRANSPORT, INC., and
JAMES B. TABOR,

Defendants.

-----X

ROBERT A. FITCH, a partner with the firm of NEWMAN FITCH ALTHEIM MYERS, P.C., attorney for the defendant, J.B. HUNT TRANSPORT, INC., and JAMES B. TABOR having an initial pleading in the above captioned matter, makes the following disclosure to the Court pursuant to Local General Rule 7.1 of the Local Rules for the Southern and Eastern Districts of New York:

The only parties who the undersigned knows to have any interest in the outcome of the action on behalf of the removing defendant, other than the removing defendant, are the following:

J. B.Hunt Transport Services, Inc.
J. B. Hunt Transport, Inc.
J. B. Hunt Corporation
L.A., Inc.

Dated: New York, New York
December 20, 2007

NEWMAN FITCH ALTHEIM MYERS, P.C.

By: **ROBERT A. FITCH (RF2198)**
Attorneys for Defendants
J.B. HUNT TRANSPORT, INC.,
14 Wall Street
New York, New York 10005-2101
(212) 619-4350

To: MARK E. SEITELMAN LAW OFFICES, P.C.
Attorneys for Plaintiff
111 Broadway, 9th Floor
New York, New York 10006
(212) 962-2626

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CHATIE GRAHAM,

CV 07-11446 (RMB/FM)

Plaintiff,

-against-

J.B. HUNT TRANSPORT, INC., and
JAMES B. TABOR,

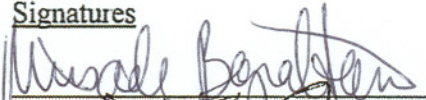

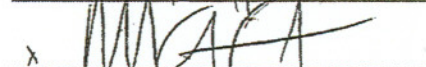
Defendants.

**CONSENT TO EXERCISE OF
JURISDICTION BY A UNITED
STATES MAGISTRATE JUDGE
OVER DISPOSITIVE MOTIONS
DESCRIBED UNDER 28 U.S.C.
§636(b)(1)(B)**

-----X
CONSENT TO EXERCISE OF JURISDICTION

In accordance with the provisions of 28 U.S.C. §636(c) and Fed.R.Civ.P. 73, the parties in this case consent to have a United States magistrate judge conduct any and all proceedings and enter a final order as to each motion identified below.

MOTIONS: Sua sponte Motion to Remand the Case to State Court

	<u>Party Represented</u>	<u>Signatures</u>	<u>Date</u>
1.	Chatie Graham		1/30/08
2.	J.B. Hunt Transport Inc.	x 	1/29/08
3.	James Tabor	λ 	1/29/08

ORDER OF REFERENCE

IT IS ORDERED that the above motion be referred to Judge Frank Maas, United States Magistrate Judge, to conduct all proceedings and enter a final order on such motion in accordance with 28 U.S.C. §636(c) and Fed.R.Civ.P. 73.

Date

Hon. Richard M. Berman

01/02/08 10:28 FAX

NFAM
JUDGE BERMANPAGE 03/03
0004UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKGLAHAM

Plaintiff(s),

Case Management Plan07 CV. 11446 (RMB)J.B. HUNT TRUST

Defendant(s).

The following Case Management Plan is entered after consultation with the parties. This Plan is also a Rule 16 and Rule 26(f) scheduling order as required by the Federal Rules of Civil Procedure.

- (i) Joinder of additional parties by [REDACTED] 4/11/08 6/11/08
- (ii) Amend the pleadings by [REDACTED] 2/1/08 with briefs 10: Juris
- (iii) All discovery to be expeditiously completed by [REDACTED] 5/12/08 FACT +
Expert
- (iv) Consent to Proceed before Magistrate Judge NO
- (v) Status of settlement discussions [REDACTED] with
principals on 5/19/08
@ 10:00 A.M.
- Sections vi through xi will be set at conference with the Court.
4/4/08 - Tel. Conf.
- (vi) Motions [REDACTED]
- (vii) Oral Argument [REDACTED] 5/21/08
- (viii) Joint Pre-Trial Order to be submitted by [REDACTED] 2:00
- (ix) Final Pre-Trial Conference [REDACTED]
- (x) Trial [REDACTED]
- (xi) Other Referred to Magistrate Judge for General Pretrial
+ possible trial pending 636(c) consent

SO ORDERED: New York, New York

1/11/07RMB

Hon. Richard M. Berman, U.S.D.J.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/11/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/24/08

-----X
CHATIE GRAHAM,

Plaintiff,

-against-

J.B. HUNT TRANSPORT, INC., and
JAMES B. TABOR,

Defendants.
-----X

FRANK MAAS, United States Magistrate Judge.

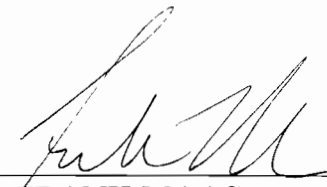
Pursuant to a telephone conference held earlier today, it is hereby

ORDERED that:

1. A further telephone conference shall be held on April 4, 2008, at 10:00 a.m. Defendants' counsel is directed to initiate the call by dialing Chambers at (212) 805-6727.
2. A settlement conference shall be held on May 21, 2008 at 2:00 p.m. in Courtroom 20A, 500 Pearl Street, New York, New York.

SO ORDERED.

Dated: New York, New York
January 24, 2008


FRANK MAAS
United States Magistrate Judge

Copies to:

Honorable Richard M. Berman
United States District Judge

Mirsade Bajraktarevic, Esq.
Mark E. Seitelman Law Offices, P.C.
Fax: (212) 962-5050

Robert A. Fitch, Esq.
Newman, Fitch, Altheim, Myers, P.C.
Fax: (212) 619-3622



Certification of Medical Record

I, Angelica D. Rios do certify that I am the Lead HIM Specialist of the Department of Health Information at The St. Luke's Cornwall Hospital and that the medical record hereto annexed is a true and complete copy of the hospital record of the admission, treatment and discharge of

Patient Name: Charlie Graham

DOB: 9/2/1964

Date(s) of Service: 8/25/06 ER

and of the conditions, acts, transactions, occurrences and/or events of said patient's confinement in said Hospital and that the entries were made in the regular course of business of said Hospital and that it was in the regular course of such business to make said entries at the time of the conditions, acts, transactions, occurrences, and/or events or within a reasonable time thereafter.

Signature: Angelica D. Rios

Date: 10/13/06

E	Med Rec # L742524	ST LUKE'S CORNWALL HOSPITAL Newburgh Campus										EMERGENCY RECORD		Pt. Acct. # H00436452	
P	Patient Name & Address GRAHAM, CHATIE 22 EDGEWOOD TERRACE NEWBURGH NY 12550 (845)561-0293										Employer Name & Address VOLUNTEERS OF AMERICA 1 GRAY COURT CHESTER, NY (914)469-0724		Soc Sec # 064-58-5575		
A	Cntry ORAN														
T	Birth-Dt Age Sex M/S Race Relgn Reg/Loc Fin-C1 Adm-Sce Regist Reg-Date Time Means of Arrival 09/02/64 41 F M AAM BAP ER /L E HMO MVA REG.MFS 08/25/06 2348 AUTOMOBILE														
E	Emergency-Notify GRAHAM KENNETH										ReIn Home-Phone SPSE (845)561-0293		Work-Phone		
N	Guarantor Name & Address GRAHAM, CHATIE 22 EDGEWOOD TERRACE NEWBURGH, NY 12550 (845)561-0293										ReIn SP		Guarantor Employer Name & Address VOLUNTEERS OF AMERICA 1 GRAY COURT CHESTER, NY (914)469-0724		
T	Soc Sec # 064-58-5575														
I	Insurance Name Policy Number Insured's Name ReIn Group Numb OXFORD HEALTH PLAN 800487302 GRAHAM, CHATIE SP										V TEMP: 98.7				
N	**PA USE ONLY** CARE 800487301 GRAHAM, CHATIE										I PUL: 88				
S	SELF PAY NO FAULT GRAHAM, CHATIE										T RESP: 20				
U											A B/P: 140/89				
R											L SAO2: 99				

Disposition: Disch Time:	Admit to: Rm	Bed	DX:
E/R Physician Signature MADELL ALAN	Primary Care Physician PROFETA GEORGE	Consult Physician	

ER - Triage Documentation SLH

08/25/06 2312 TOC

Triage Time: 2312 *****EMERGENCY ROOM TRIAGE RECORD*****
 Mode of arrival: Town of Newburgh Ambul.
 Temp: 98.7 Pulse: 88 Resp: 20 BP: 140/89
 Src: Rhythm: *Pattern: SAO2%: 99
 RA/O2: RA
 LPM:
 *Triage B(ENTER A,B,C) (D FOR LAMS) PMD:
 CC/HX: PT INVOLVED IN A MVC HIT FROM BEHIND PT CAR WAS MOVING FORWARD PT DENIS
 LOC SEATBELT USE REPORTED FROM PT AMBULATORY AT SCENE PT C/O BILAT ARM
 PAIN NECK AND SHOULDER PAIN. PT ALSO C/O HEADACH. / TC
 *Pain Scale: 10
 *Non Verbal observations:

If Pregnant: G: Pt: T: A: L: LMP: EDD:
 Wks: FHR: FHR Mode:
 Prenatal Care:
 Comments:

Requesting Mental Health Services?

Prior Medical History: HTN

*Difficult Airway Identified:

Surg Hist/Past Hosp:

ALLERGIES/REACTIONS *: DENIED

HT:ft: WT: 204 Lbs
 in: kg: 92.533

Immunization Status:

cm:

Lead Testing:

(AGE 9MO-6YR)

Tetanus: Y Date: UTD

Head Circumference:

Last menstruation:

Sickle Cell Screening:

*Recent Mammogram (within 2 years) Not able to ask/answer

CURRENT MEDICATIONS: (include Dose, Frequency, Last Dose & Time Taken)

*: BP MEDS

BARRIERS TO LEARNING Special Learning Needs: None

Primary Language: ENGLISH

Add Stroke Intervention Set for any patients exhibiting symptoms of stroke

Cmt:

Monogram Initials

Name

Nurse Type

TOC

N.TOC

CRISCI, TONI

RN

Age/Sex: 41 F

Unit #: L742524

Account#: H00436452

Admitted:

GRAHAM, CHATIE (PRE ER)

L.ER-

St. Luke's Cornwall Hospital NUR

Page: 1 of 1

Printed 08/25/06 at 2316

Period ending 08/25/06 at 2316

TRIAGE

CLASS 100 (1/1/55) BY 107-11/5 PROGRAM

☐ A ☐ B ☐ C ☐ D


ST. LUKE'S CORNWALL HOSPITAL

- ☐
- CORNWALL CAMPUS
-
- ☐
- NEWBURGH CAMPUS

PATIENT NAME

STREET ADDRESS

CITY/STATE/ZIP

CRAHAN, CHATIE

AGE

41

SEX

09/02/64

ROOM NO

KESSELL, ALAN

EMERGENCY CASES CANNOT ALWAYS BE HANDLED ON A FIRST-COME, FIRST-SERVE BASIS. YOU MAY HAD TO WAIT FOR ATTENTION. IT IS PROBABLY BECAUSE SOMEONE MORE SERIOUSLY ILL WAS RECEIVING CARE. ON THEIR BEHALF, WE THANK YOU FOR YOUR PATIENCE AND COOPERATION.

AFTER CARE INSTRUCTION TO THE PATIENT

The treatment that you received from the Emergency Room was an EMERGENCY TREATMENT ONLY. It was directed primarily to the emergent problem. Emergency treatment is not intended to be a substitute for the complete and comprehensive medical care as rendered by your personal doctor. It is difficult to recognize and treat all elements of injury or illness in a single visit. It is also difficult to treat a NON-EMERGENT or CHRONIC condition on an emergent basis in the Emergency Room.

If new symptoms should develop or if your condition becomes worse and you cannot reach your personal doctor, return to SLCH Hospital Emergency Room AT ONCE. Si su lengua síntomas nuevas o si su síntomas empeoran por favor regrese al sala de emergencia.

Conditions may change in the course of hours and new unforeseeable complications may ensue. In that case, it is essential that you secure a follow-up examination and treatment by arranging an appointment with YOUR OWN DOCTOR. Mientras siga las AFTER CARE INSTRUCTIONS INDICATED BELOW: Condiciones pueden cambiarse en pocas horas y complicaciones nuevas pueda ser. Tomen estas instrucciones y las instrucciones significa bajo.

FOR GENERAL MEDICAL FOLLOW-UP CALL

Medical Doctor on Call _____ Phone _____ or

Family Health Center 563-8000

COMPENSATION CASES - Compensation cases are required to obtain follow-up care by a private physician. Call within two (2) days to make an appointment.

X-RAYS - The interpretation of your x-ray as given to you by the Emergency Room Physician is only a preliminary report. The x-ray specialist reviews the x-ray films and if there is a change in the diagnosis, you and/or your personal physician will be notified. Sus radiografías han sido leídas en base preliminar. La leída final será hecha por un radiólogo. Si es necesario usted será notificado de cualquier cambio.

MEDITECH INSTRUCTION SHEET:

- ☐
- BEHAVIOR HEALTH
-
- ☐
- ABDOMINAL PAIN
-
- ☐
- ABSCESES
-
- ☐
- ALLERGIC REACTIONS
-
- ☐
- ALLERGIC BRONCHITIS
-
- ☐
- ASTHMA
-
- ☐
- BRONCHITIS (ADULT)
-
- ☐
- BURNS
-
- ☐
- CAST CARE
-
- ☐
- CERVICAL PAIN
-
- ☐
- CHEST PAIN
-
- ☐
- CONSTIPATION
-
- ☐
- CORNEAL ABRASION
-
- ☐
- /EYE INJURY
-
- ☐
- CROUP
-
- ☐
- CRUTCH WALKING

- ☐
- DEPRESSION
-
- ☐
- DERMABOND
-
- ☐
- DETOX
-
- ☐
- EYE INFECTION
-
- ☐
- FEVER
-
- ☐
- GASTRITIS
-
- ☐
- GENERAL DC INSTRUCTIONS
-
- ☐
- HAND
-
- ☐
- HEAD INJURY
-
- ☐
- HEADACHES
-
- ☐
- HEARTBURN
-
- ☐
- HEAT EXHAUSTION
-
- ☐
- HEMATOMA/ECCHYMOSIS
-
- ☐
- HERNIA
-
- ☐
- HIGH BLOOD PRESSURE
-
- ☐
- HYPERVENTILATION
-
- ☐
- HYPOGLYCEMIA

- ☐
- INSECT BITES
-
- ☐
- LACERATION
-
- ☐
- LOW BACK PAIN
-
- ☐
- LYME DISEASE
-
- ☐
- NOSEBLEEDS
-
- ☐
- NURSEMAID'S ELBOW
-
- ☐
- OTITIS MEDIA
-
- ☐
- PALPITATIONS
-
- ☐
- PEDS FEVER MANAGEMENT
-
- ☐
- PEDS VOMITING/DIARRHEA
-
- ☐
- PHARYNGITIS
-
- ☐
- POISON IVY/OAK/SUMAC
-
- ☐
- RENAL COLIC
-
- ☐
- SHINGLES
-
- ☐
- SHOULDER DISLOCATION
-
- ☐
- SPRAINS/STRAINS
-
- ☐
- STDS

- ☐
- STUBBED TOE/FRACTURED TOE
-
- ☐
- SUNBURN
-
- ☐
- THREATENED ABORTION
-
- ☐
- TIAS
-
- ☐
- TICK BITE/LYME DISEASE
-
- ☐
- TOOTHACHE
-
- ☐
- URI
-
- ☐
- URINE RETENTION/CATHETER
-
- ☐
- URTICARIA/HIVES
-
- ☐
- UTI
-
- ☐
- VERTIGO
-
- ☐
- VIRAL SYNDROME (ADULT)
-
- ☐
- VOMITING/DIARRHEA
-
- ☐
- WOUND CARE (NO SUTURES)
-
- ☐
- WRIST INJURY
-
- ☐
- SPANISH VERSION
-
- ☐
- PSYCHIATRIC REFERRAL

☐ EMPLOYEE, NO WORK FOR ☐ 1 ☐ 2 DAYS
Follow up with Specialist Dr. Hyman Phone 561-8000NO WORK FOR 1 DAYS

For Dental follow up, FHC Dental 645-569-6142, Dr. Bauer 645-565-2140, Dr. Goldstein 645-564-9300, Dr. Mourad 645-561-3290

NO SCHOOL FOR _____ DAYS

For STD exposure, Orange County DLH 568-5333, Planned Parenthood 562-5748

NO PHYS ED. FOR _____ DAYS

Soft collar for comfort
ice pack
Motrin 600 every 6 hrs with food
tylenol 200 for pain every 4 hrs
if there

☐ The Doctor you have been referred to _____ may not be covered in your insurance plan and you may be required to pay for the office visit. Since there are many different insurance plans, and not every physician participates in every plan, we advise that you contact your insurance company to verify which physicians are in your plan.

PAIN SCALE AT DC: 0 1 2 3 4 5 6 7 8 9 10
 No Pain Worst Pain

VITAL SIGNS AT DC: T _____ P _____ R _____ BP _____ PD _____

DIAGNOSTIC IMPRESSION: Strain cervicalDISPOSITION@DC ☒ Stable ☐ Improved

I HAVE RECEIVED AND UNDERSTAND ABOVE INSTRUCTION SHEET/HABER RECIBIDO Y ENTIENDO LOS INSTRUCCIONES:

PRESCRIPTIONS: ☒ NO DRIVING WHILE TAKING MEDICATION

PT SIGNATURE

RN

Time out 01:30

MD/PAIN

DEPARTMENT OF
EMERGENCY MEDICINE

A B C D



ST. LUKE'S CORNWALL HOSPITAL

☐ CORNWALL CAMPUS
☐ NEWBURGH CAMPUS

SERVICE DATE

8/25/06

PATIENT NAME

STREET ADDRESS

CITY

STATE

AGE

SEX


DOB

PH

Graham, Charles
 170224
 GRAHAM, CHARLES
 09/02/64
 09/02/64
 00436152

CHIEF COMPLAINT		KEY	
Time 1230		Agreed with	Not Comments
HPI	Uninjured driver ~ then car rear ended.	X	
4	[Quality, severity, time] Says hit from car.		
4	[Location, Duration, Context] rear end - no side body contact.		
1-3	[Assoc. S&S] <input type="checkbox"/> None		
1-3	[Mod. Factors] <input type="checkbox"/> None		
Review of Symptoms (CIRCLE APPROPRIATE FINDINGS)			
ROS	General: <input checked="" type="checkbox"/> WNL Chills Fever Malaise Wt Loss	GU: <input checked="" type="checkbox"/> WNL Dysuria Frequency Urgency Nocturia	
10+	Skin: <input checked="" type="checkbox"/> Normal Rash Sweaty Itchy Laceration	MS: <input checked="" type="checkbox"/> WNL Back Pain Joint Pain	Myalgia Weakness
2-9	Eyes: <input checked="" type="checkbox"/> WNL Blurred Diplopia Photophobia	Neuro: <input checked="" type="checkbox"/> WNL Seizures Dizziness	Headache Weakness
DRP	ENT: <input checked="" type="checkbox"/> WNL Nosebleeds Sore Throat Rhinitis	Psych: <input checked="" type="checkbox"/> WNL Anxiety Depression	Suicide
DRP	Resp: <input checked="" type="checkbox"/> WNL Cough SOB Hemoptysis	Endocrine: <input checked="" type="checkbox"/> WNL Thirsty Polyuria	Head/Cold Intolerance
DRP	Cardiac: <input checked="" type="checkbox"/> WNL Chest Pain Palpitations Orthopnea DOE	Heme: <input checked="" type="checkbox"/> WNL Bleeding Bruising	
DRP	GI: <input checked="" type="checkbox"/> WNL Abd. Pain Constipation Diarrhea Nausea Vomiting		
<input type="checkbox"/> All other pertinent ROS negative <input type="checkbox"/> See Additional ROS in HPI:			
PFS	<input type="checkbox"/> Patient is a Return Visit (within last 72 hours)		
H	<input checked="" type="checkbox"/> RN Triage Notes Reviewed and Confirmed <input type="checkbox"/> Unable to Obtain Hx Secondary to: _____ History from: _____		
2-3	<input type="checkbox"/> Medications Reviewed in Nursing Notes <input type="checkbox"/> Old Medical Records Reviewed: _____ Date: _____		
1	<input checked="" type="checkbox"/> Allergies NKDA <input type="checkbox"/> Allergies: _____ Tetanus: <input type="checkbox"/> Up to Date LMP: 8/1/06 GPAL		
N/A	Past Medical History: <input type="checkbox"/> Neg <input type="checkbox"/> DM <input checked="" type="checkbox"/> HTN <input type="checkbox"/> MI <input type="checkbox"/> CAD/Angina <input type="checkbox"/> CHF <input type="checkbox"/> COPD <input type="checkbox"/> Asthma <input type="checkbox"/> CVA <input type="checkbox"/> Other _____		
N/A	Past Surgical History: <input checked="" type="checkbox"/> Negative <input type="checkbox"/> Positive _____		
N/A	Family History: <input type="checkbox"/> No Significant Family History <input type="checkbox"/> Heart Disease <input type="checkbox"/> DM <input type="checkbox"/> Cancer <input checked="" type="checkbox"/> HTN <input type="checkbox"/> Other _____		
N/A	Social History: Tobacco: <input type="checkbox"/> No <input type="checkbox"/> Yes Alcohol: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Substance Abuse: <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Other _____		
Vital Signs	Temp. 98.7	PULSE 88	RESP. 20
			BP 140/80
			Pulse Oximetry 99
			Glucose _____
			Pain Scale _____
	Constitutional: <input type="checkbox"/> Vital Signs Reviewed (See Nurses Notes) <input checked="" type="checkbox"/> Warm, Dry, Well Nourished <input type="checkbox"/> No Distress <input type="checkbox"/> Non-Toxic		
	<input type="checkbox"/> Other _____		
	Eyes: <input type="checkbox"/> Conjunctive WNL <input type="checkbox"/> Lids WNL <input checked="" type="checkbox"/> PERL <input type="checkbox"/> Fundi WNL <input type="checkbox"/> No Nasal Discharge		
	ENT: <input checked="" type="checkbox"/> WNL <input type="checkbox"/> Throat clear <input type="checkbox"/> No exudates <input type="checkbox"/> Dentition WNL <input type="checkbox"/> No bleeding of gums <input type="checkbox"/> NML Fontanelle		
	<input type="checkbox"/> Other _____		
	Neck: <input type="checkbox"/> Supple <input type="checkbox"/> No masses <input checked="" type="checkbox"/> No tenderness <input type="checkbox"/> Trachea midline <input type="checkbox"/> No JVD <input type="checkbox"/> No stridor <input type="checkbox"/> Thyroid Normal size and consistency		
	<input type="checkbox"/> Other _____		
	Chest/Breast: <input checked="" type="checkbox"/> Chest symmetrical <input checked="" type="checkbox"/> No deformities <input type="checkbox"/> Non-tender to palpation		
	<input type="checkbox"/> No lumps or masses palpated		
	<input type="checkbox"/> Other _____		
	Respiratory: <input checked="" type="checkbox"/> Well-aerated bilaterally <input checked="" type="checkbox"/> Clear to A/P <input checked="" type="checkbox"/> No rales <input type="checkbox"/> No rhonchi <input type="checkbox"/> No wheezes		
	<input type="checkbox"/> Other _____		
	Cardiovascular: <input checked="" type="checkbox"/> Good heart tones <input checked="" type="checkbox"/> RRR without ectopy <input checked="" type="checkbox"/> S1, S2 WNL <input type="checkbox"/> No murmurs <input type="checkbox"/> No S3/S4 <input type="checkbox"/> PMI WNL		
	Pulses: <input type="checkbox"/> Equal bilaterally and strong in <input type="checkbox"/> Carotid <input type="checkbox"/> Femoral <input type="checkbox"/> Brachial areas <input type="checkbox"/> Good Distal-Pedal pulses		
	<input type="checkbox"/> No bruit <input type="checkbox"/> No thrills		
	<input type="checkbox"/> Other _____		
	Abdominal: <input checked="" type="checkbox"/> Flat <input checked="" type="checkbox"/> Non-tender <input type="checkbox"/> Good bowel sounds in all quadrants <input type="checkbox"/> No hepato-splenomegaly		
	<input type="checkbox"/> No abdominal/inguinal hernia <input checked="" type="checkbox"/> No masses <input checked="" type="checkbox"/> No Rebound <input type="checkbox"/> No Guarding <input type="checkbox"/> No Pulsatile Mass		
	Rectal: <input type="checkbox"/> No hemorrhoids <input type="checkbox"/> Good sphincter tone <input type="checkbox"/> No masses <input type="checkbox"/> Guaiac Negative		
	Prostate Normal size and consistency <input type="checkbox"/> Non-tender		
	<input type="checkbox"/> Other _____		
	GU (Male): <input type="checkbox"/> Penis: <input type="checkbox"/> Without lesions <input type="checkbox"/> No discharge		
	Scrotum: <input type="checkbox"/> Two testicles of normal size <input type="checkbox"/> Descended <input type="checkbox"/> Non-tender		
	<input type="checkbox"/> Other _____		
	GU (Female): <input type="checkbox"/> Pelvic: <input type="checkbox"/> External genitalia WNL <input type="checkbox"/> No vaginitis <input type="checkbox"/> No D/C <input type="checkbox"/> No masses		
	<input type="checkbox"/> Cervix: <input type="checkbox"/> WNL <input type="checkbox"/> No CMT <input type="checkbox"/> Os closed		
	Uterus: <input type="checkbox"/> Non-tender <input type="checkbox"/> No masses <input type="checkbox"/> Size WNL		
	Adnexa: <input type="checkbox"/> No masses <input type="checkbox"/> Non-tender		
	<input type="checkbox"/> Other _____		
	Lymphatic: <input checked="" type="checkbox"/> No palpable nodes in <input checked="" type="checkbox"/> Neck <input type="checkbox"/> Axillae <input type="checkbox"/> Inguinal region		
	<input type="checkbox"/> Other _____		
	MS Spine / Extremities: <input type="checkbox"/> Gait WNL <input type="checkbox"/> No Midline Spinal Tenderness <input type="checkbox"/> Neck <input type="checkbox"/> Thoracic <input type="checkbox"/> Lumbar regions <input type="checkbox"/> No deformities		
	<input type="checkbox"/> Full ROM <input type="checkbox"/> Non-tender <input type="checkbox"/> No pre-tibial edema <input type="checkbox"/> No calf tenderness		
	<input type="checkbox"/> Other _____		
	Skin: <input type="checkbox"/> Warm and dry <input type="checkbox"/> No rashes <input type="checkbox"/> WNL color and texture <input type="checkbox"/> Non-tender <input type="checkbox"/> Skin turgor WNL <input type="checkbox"/> Fontanelle Flat <input type="checkbox"/> Cap refill WNL		
	<input type="checkbox"/> Other _____		
	Neurologic: <input checked="" type="checkbox"/> Awake and aware, CN II-XII intact <input type="checkbox"/> No pronator drift <input type="checkbox"/> Strength WNL <input type="checkbox"/> Sensation WNL		
	<input type="checkbox"/> DTR's equal and active <input type="checkbox"/> NIH Stroke Scale _____		
	<input type="checkbox"/> Other _____		
	Psychiatric: Oriented to: <input checked="" type="checkbox"/> Person <input checked="" type="checkbox"/> Time <input type="checkbox"/> Place <input type="checkbox"/> Answers questions appropriately <input type="checkbox"/> No suicidal/homicidal thoughts		
	<input type="checkbox"/> Judgement WNL <input type="checkbox"/> Mood and Affect appropriate <input type="checkbox"/> Medically cleared		
	<input type="checkbox"/> Other _____		

FOLD HERE

MEDICAL DECISION MAKING					
LAB RESULTS: 		UA _____ UCG _____ CK _____ CKMB _____ Trop _____ INR _____			
All Interpretations Performed By ED Clinician Unless Otherwise Noted					
Radiological Interpretation: C-spine			Analysis: Peak Flows #1 (Pre) _____, #2 (Post) _____, #3 (Post) _____ Interpretation _____ ABG Interpretation _____ Pulse Ox Interpretation <input checked="" type="checkbox"/> WNL <input type="checkbox"/> Hypoxia		
EKG Strip: Rate _____ Rhythm _____ EKG: Rate _____ Rhythm _____ Axis _____					
* All Procedures Performed By ED Clinician Unless Otherwise Noted*					
PHYSICIAN PROCEDURES: <input type="checkbox"/> I & D <input type="checkbox"/> FB Removal <input type="checkbox"/> Foley Cath <input type="checkbox"/> Intubation <input type="checkbox"/> RSI <input type="checkbox"/> Laryngoscopy <input type="checkbox"/> TPA <input type="checkbox"/> Conscious Sedation <input type="checkbox"/> Chest Tube <input type="checkbox"/> Central Line <input type="checkbox"/> Diff IV <input type="checkbox"/> IV push meds <input type="checkbox"/> Femoral Stick <input type="checkbox"/> NGT <input type="checkbox"/> ABG <input type="checkbox"/> Nasal Packing <input type="checkbox"/> Burn Care <input type="checkbox"/> LP <input type="checkbox"/> Slit Lamp <input type="checkbox"/> Fluorescein Stain with Woods Lamp <input type="checkbox"/> Digital Block <input type="checkbox"/> Open Thoracotomy <input type="checkbox"/> Vaginal Delivery <input type="checkbox"/> Ortho Splint <input type="checkbox"/> Splint Applied: _____ <input type="checkbox"/> Shoulder Reduction <input type="checkbox"/> Finger Reduction <input type="checkbox"/> Patella <input type="checkbox"/> Mandibular <input type="checkbox"/> Other _____					
Wound Repair: <input type="checkbox"/> Simple <input type="checkbox"/> Complex		Laceration Length(s) (cms): _____ <input type="checkbox"/> Curved <input type="checkbox"/> Angular <input type="checkbox"/> Stellate Location: _____ <input type="checkbox"/> Layered <input type="checkbox"/> Linear (Explain) _____ Material: _____ # of Sutures: _____ Level of Contamination: <input type="checkbox"/> Clean <input type="checkbox"/> Minimal <input type="checkbox"/> Severe ANESTHESIA:		Irrigated: <input type="checkbox"/> Yes <input type="checkbox"/> No Explored: <input type="checkbox"/> Yes <input type="checkbox"/> No FB Present: <input type="checkbox"/> Yes <input type="checkbox"/> No Removed: <input type="checkbox"/> Yes <input type="checkbox"/> No Debrided: <input type="checkbox"/> Yes <input type="checkbox"/> No	
CRITICAL CARE TIME: Start _____ End _____					
JUSTIFICATION: 					
Pain Reassessment: 					
DIAGNOSTIC IMPRESSION: 1) <u>Strain, cervical</u> 4) 2) 5) 3) 6)					
COMMUNICATIONS MD / Consult Called		Time	Recall(s)	Answered / In ED	DISCUSSION:
Disposition Date:		Time:		Admit to: <input type="checkbox"/> Critical Care <input type="checkbox"/> Gen Med/Surg <input type="checkbox"/> Peds Unit	
				Admitting Physician:	
<input checked="" type="checkbox"/> Treat / Release <input type="checkbox"/> AMA <input type="checkbox"/> Elopement <input type="checkbox"/> Left W/O Being Seen <input type="checkbox"/> Transfer Reason for Transfer: <input type="checkbox"/> Expired <input type="checkbox"/> Coroner Notified <input type="checkbox"/> ODN Notified Ref # _____				Time ADM. Called _____ Room # _____ Time Bed Assigned _____ PT. to Floor _____	
Condition: <input type="checkbox"/> Improved <input type="checkbox"/> Unchanged <input type="checkbox"/> Asymptomatic <input type="checkbox"/> Stable <input type="checkbox"/> Ambulatory <input type="checkbox"/> Unstable <input type="checkbox"/> Guarded					
Follow-Up:		Who: _____ When: _____ Time off: _____		Patient endorsed to Dr. _____ who accepts responsibility for the further evaluation of this patient @ _____ AM / PM Signature: _____	
Print Name (AHP)	Init	Signature		Print Name (Physician)	Init
				<u>Modell</u>	<u>Modell</u>

ORANGE REGIONAL MEDICAL CENTER

Report Of Operation

Arden Hill Campus 4 Harriman Drive Goshen New York 10924 (845) 294-2189 x4688
Horton Campus 60 Prospect Avenue Middletown, New York 10940 (845) 342-7568

Patient: GRAHAM, CHATIE

MR#: 450909

RM#:

Date:

Surgeon: JOHN P. HANDAGO, M.D.

ASST:

PREOPERATIVE DIAGNOSIS: IMPINGEMENT SYNDROME OF THE
LEFT SHOULDER.

POSTOPERATIVE DIAGNOSIS: IMPINGEMENT SYNDROME, PARTIAL
TEAR OF THE ROTATOR CUFF
TENDON, PARTIAL TEAR OF
ANTERIOR AND POSTERIOR LABRUM
AND BURSITIS.

OPERATION: ARTHROSCOPY OF THE LEFT
SHOULDER WITH ACROMIOPLASTY
AND MODIFIED MUMFORD
PROCEDURE. DEBRIDEMENT
PARTIAL TEAR OF THE ROTATOR
CUFF TENDON. DEBRIDEMENT OF
PARTIAL TEARING ANTERIOR AND
POSTERIOR LABRUM. PARTIAL
BURSECTOMY.

ANESTHESIA: GENERAL ENDOTRACHEAL WITH
SUPRASCAPULAR BLOCK LEFT
SHOULDER

ANESTHESIOLOGIST: SHARMA, M.D.

PROCEDURE: The patient was brought to the OR and placed on the OR table in the supine position. A general endotracheal anesthetic was administered. The patient was then turned into the right lateral decubitus position with the left shoulder 20 degrees retrograde from the vertical. Under aseptic conditions, a suprascapular block was applied to the left shoulder by Dr. Sharma.

This was followed by DuraPrep and sterile drapes in the appropriate fashion. The left upper extremity was suspended from the arm holding device with 20 degrees forward flexion, 45 degrees abduction, 10 pounds traction. The usual posterior operative portal was created with a #11 blade and the blunt trocar was used to insert the arthroscopic cannula into the glenohumeral joint. There was some mild degenerative changes of the glenoid.

ORANGE REGIONAL MEDICAL CENTER

Report of Operation

Arden Hill Campus 4 Harriman Drive Goshen New York 10924 (845) 294-2189 x4688
Horton Campus 60 Prospect Avenue Middletown, New York 10940 (845) 342-7568

Patient: GRAHAM, CHATIE
Room:
Surgeon: JOHN P. HANDAGO, M.D.
ASST:

MR#: 450909
Date:

Page: 2

There was a partial tearing of the anterior portion of the rotator cuff tendon. There was partial tearing of the anterior and posterior labrum. At this point, the anterior operative portal was created in the usual fashion by advancing the scope into the triangle formed by the leading edge of subscapularis tendon and the biceps tendon.

When the Wissinger rod was prominent in the skin superior and lateral to the coracoid process, the skin was incised and a 7 mm operative cannula was inserted retrograde into the glenohumeral joint. The labrum was palpated with the probe, found to be intact anteriorly and posteriorly. There was a small tear anteriorly of the rotator cuff tendon.

The motorized shaving device was then inserted and the tear, anterior and posterior of the labrum, was debrided and the partial tear of the rotator cuff tendon was then debrided. Attention was then directed to the subacromial space where the scope was repositioned with the blunt trocar. The lateral operative portal was created with a #11 blade, approximately 2 cm inferior to the lateral edge of the acromion.

The 8 mm operative cannula was inserted into the subacromial space with the blunt trocar. The ArthroCare motorized shaving device was then used to remove inflamed bursal tissue. This brought into view the acromion and this was then cleared of soft tissue with the ArthroCare as well as the lateral and inferior aspect of the clavicle.

The acromioclavicular soft tissues were also debrided. The acromionizer was then inserted and the acromion was resected from medial to lateral and anterior to posterior in a butcher block fashion. The lateral inferior aspect of the clavicle was also debrided. The motorized shaving device was then inserted and additional inflamed bursal tissue was debrided from the acromial aspect of the rotator cuff tendon.

There is no overt partial or full thickness tear. The acromial surface was devoid of any tear as opposed to the glenohumeral aspect of the rotator cuff tendon. At this point, bleeders were coagulated and a copious irrigation was performed. No additional pathology was identified. The inflow was turned off and the instruments were withdrawn.

May 10 07 01:05p

P. 1

ORANGE REGIONAL MEDICAL CENTER

Report of Operation

Arden Hill Campus 4 Harriman Drive Goshen New York 10924 (845) 294-2189 x4688
Horton Campus 60 Prospect Avenue Middletown, New York 10940 (845) 342-7568

Patient: GRAHAM, CHATIE
Room:
Surgeon: JOHN P. HANDAGO, M.D.
ASST:

MR#: 450909
Date:

Page: 3

Wound closure was performed with 3-0 Polysorb in a simple mattress fashion. 20 cc of 0.25% Marcaine plain were injected into the subacromial space. Sterile dressings were applied. The patient was then awakened from her general endotracheal anesthetic. She was transferred to the recovery room stretcher and transported to the Recovery Room where she was seen in satisfactory condition. Estimated blood loss for the procedure was negligible.

Dictated by: JOHN P. HANDAGO, M.D.


JOHN P. HANDAGO, M.D.

Job: 276572
DD: 03/28/2007
DT: 03/29/2007
PMC/LB

NO. 0002 P. 1

MAY 10 2007 11:14AM HIM

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0001/001

HUDSON VALLEY IMAGING

affiliated with  St. Luke's Cornwall Hospital

575 Hudson Valley Ave. Newburgh, NY 12553. Tel (845) 220-2222. Fax (845) 220-2211

RE: GRAHAM, CHATIE
DOB: 1964/09/02
DOE: 2007/02/07
ENCOUNTER#: 89339
READING DOCTOR: MARTINEZ, HILARIO, M.D.
REFERRING / ORDERING DOCTOR: POLEPALLE, SUNITHA, M.D.

DESCRIPTION: MRI OF THE CERVICAL SPINE

INDICATION: Neck pain with left paresthesias.

TECHNIQUE: Multiple sagittal T1 and T2, and axis GRE-weighted images were obtained.

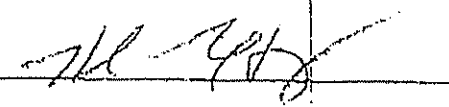
FINDINGS: The sagittal images demonstrate straightening of the cervical lordosis. The vertebral body height and signal within the bone marrow are within normal limits.

Evaluation of the cervical discs demonstrates a mild broad based posterior disc bulge at C4-5, C5-6 and C6-7 causing flattening of the ventral dural sac without spinal stenosis. There is mild uncovertebral joint hypertrophy predominantly involving the left C4-5 and C5-6 uncovertebral joints causing stenosis of the left C4 and C5 foramina. Facet joints are intact. The cervicomedullary region appears normal. The cervical spinal cord demonstrates a normal caliber and signal intensity.

The atlantoaxial joint relationship, odontoid process, prevertebral soft tissues, craniovertebral junction and occipital condyles are normal.

IMPRESSION:

1. There is a mild broad based posterior disc bulge at C4, C5-6 and C6-7 causing flattening of the ventral dural space. No spinal stenosis is identified.
2. Normal cervical cord.
3. Mild uncovertebral joint hypertrophy as described causing mild stenosis of the left C4 and C5 foramina.


Hilario Martinez, M.D., Radiologist
D: 2/7/07 T: 2/8/07 cw

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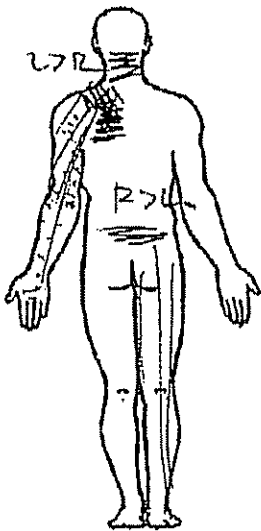
Physical Therapy Initial-Evaluation

Patient Name CHARLIE GRIFFIN (CHARLIE GRIFFIN) Age 42 Date 9-27-06
 Diagnosis CS/LS RADICULOPATHY Doctor DR. ROBERT

Precaution HTN

Area to be treated

() C-Spine () T-Spine () L-Spine () S-Spine
 Shoulder R/L Arm R/L Elbow R/L Forearm R/L Wrist R/L Hand R/L
 Hip R/L Thigh R/L Knee R/L Leg R/L Ankle R/L Foot R/L



Involved in an MVA 8-25-06. His car was rear-ended with her (L) shoulder against driver's side door. X-ray @ St. Lukes was (-). Currently on severe neck pain, (L) Sh. pain and (L) R. that radiates to (L) arm. (L) Pain (R) in surgery (R) HTN.
 1 2 3 4 5 6 7 8 9 10
 Objective Endomorph, (+) Impingement test (Dist. (-))
spurling's, (-) straight leg, (-) slump
(+) Patrick's (L), 1

☒ Muscle Spasm

☐ Edema

☐ Sensation Unk/Pres

☒ Muscle Tenderness

☐ Atrophy

☐ Contracture

ROM CS flexed 20° LF 22° rot. (R) 44° @ 30° (L) Sh. Flex 100° at 40°
Ext 75° IR/ER 45°, LS Flex 40°, Ext 5°, LF 10° (R) EM PTY
 MMT CS grossly gr. 3+/5, (L) Sh. 3/5, Abd/LS ext 3/5 Mod. +
Severe C pain

Assessment Test - WVA pain/radiculopathy. Affects mostly self-care including her
and getting her on. Reaching up very difficult due shooting
pain. Has trouble sitting and st. for long periods > 10 mins. Good for
STG - 2 to 4 weeks LTG - 4 to 6 weeks Rehab

Goals

- ☐ (1) Reduce pain by 50%
☐ (2) Use (L) sh 70° for
☐ Self-care 5/10x
☐ (3) St and st. > 15 min.

- ☐ (4) Manage numbness/paresthes
☐ 50/-
☐ LTG (1) reach WNL for
☐ functional pre-injury status

Plan

Pt. 2 - 2x/wk

(2) RTW full duty 8hrs. 20/day

Treatments

- ☒ Hot Pack
☒ Cold Pack
☒ E-stim
☒ Ultrasound

- ☒ UBE / LBE
☐ Treadmill
☒ PR Series
☐ Total Gym

- ☒ ROM Ex.
☒ Stretching
☐ Gait Training
☐ Balance Ex.

- ☒ NMR
☒ MFR
☒ HEP
☐ JT MOB

- ☒ Stationary Bike
☐ McKenzie Ex.
☒ William's Flx/ext
☒ Proper Body Mech

Andre Bassig, RPT
 022509-1

Richard V. Escano, RPT
 027887-1

06/29/2007 11:00 0

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MID HUDSON PAIN MANAGEMENT & PHYSICAL THERAPY**SUNITHA POLEPALLE, M.D.**

Board Certified in Physical Medicine & Rehabilitation

ELECTRODIAGNOSTIC MEDICINE (EMG/NCV)
NECK & BACK PAIN AND SPORTS & WORK INJURIES
CARPAL TUNNEL SYNDROME110 CRYSTAL RUN RD
MIDDLETOWN, NY 10940
TEL: (845) 692-4270
FAX: (845) 692-50143078 RT 9W, STE 200
NEW WINDSOR, NY 12553
TEL: (845) 565-5943
FAX: (845) 565-5944**THERAPY PRESCRIPTION**

PATIENT:

Charlie Graham

D.O.B.

9/2/06

DATE:

9/2/06

P.T.

O.T.

Diagnosis:

- ☒ Myofascial Pain
- ☒ Rotator Cuff Tendinitis
- ☒ Cervical Radiculopathy
- ☒ Lumbar Radiculopathy

- ☐ Facet Dysfunction
- ☐ Carpal Tunnel Syndrome
- ☐ Sacroiliac Dysfunction

Precautions:

- ☐ Avoid Back Flexion
- ☐ Avoid Back Extension

Therapy:

- | | |
|--|--|
| <input type="checkbox"/> Iontophoresis | <input type="checkbox"/> Phonophoresis |
| <input type="checkbox"/> HEP | <input type="checkbox"/> Pelvic Stabilization |
| <input type="checkbox"/> US | <input type="checkbox"/> Lumbar Stabilization |
| <input type="checkbox"/> Superficial Heat | <input type="checkbox"/> Back School |
| <input type="checkbox"/> Ice | <input type="checkbox"/> Instructions on Proper Body Mechanics |
| <input type="checkbox"/> ROM Exercises | <input type="checkbox"/> Work Hardening |
| <input type="checkbox"/> Strengthening Exercises | <input type="checkbox"/> Myofascial Release |
| <input type="checkbox"/> Deep Friction Massage | |

Duration: 2-3 x per week for 16 weeks.

Sunitha Polepalle, M.D.

SP:rh
090801

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Physical Therapy Re-Evaluation

Patient Name Charles Graham Date 4-16-07
 Diagnosis ① child osteomyelitis Doctor John P. Hordago
 Precaution none

Subjective It do most pain on ① child, s/p
① child osteomyelitis on 3-27-07.

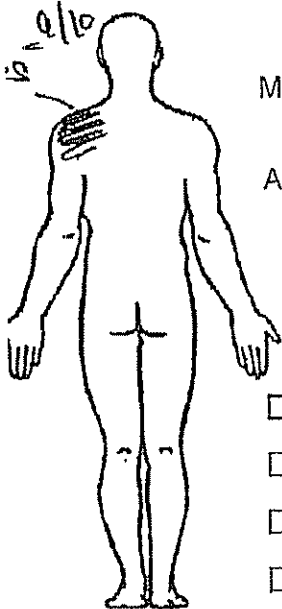
Objective examorph, tenderness, on tpt's scratch on
FE/ER, abd/add.

AROM find V = 0-170°, abd = 0-170°

FE and ER is limited 2 pain

MMT gross ms grade is 3/5

Assessment s/p ① child osteomyelitis
pain limits ROM on FE/ER abd add.



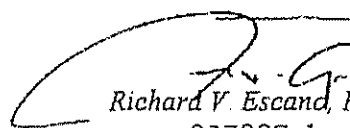
Goals STG

- | | |
|--|---|
| <input type="checkbox"/> Reduce pain 101. | <input type="checkbox"/> rel on upper clothes profile |
| <input type="checkbox"/> Eliminate ms tenderness | <input type="checkbox"/> STG |
| <input type="checkbox"/> Return ROM 101. | <input type="checkbox"/> Reduce pain 101 |
| <input type="checkbox"/> improve ms grade 1/2 | <input type="checkbox"/> Establish daily HEP |

Plan PT 2-3X/week x 4 wks

- | | | | | |
|----|--|---|---|--|
| TX | <input checked="" type="checkbox"/> H/C Pack | <input checked="" type="checkbox"/> Strengthening | <input type="checkbox"/> BAPS-Board | <input type="checkbox"/> Gait Training |
| | <input checked="" type="checkbox"/> Tens / ES | <input type="checkbox"/> Scap Stabilization | <input checked="" type="checkbox"/> Stationary Bike | <input type="checkbox"/> William's Flx/ext |
| | <input type="checkbox"/> US | <input type="checkbox"/> NMR | <input type="checkbox"/> Total Gym | <input type="checkbox"/> McKenzie Ex |
| | <input checked="" type="checkbox"/> ROM Ex | <input type="checkbox"/> Joint Mob | <input checked="" type="checkbox"/> Overhead Pulley | <input type="checkbox"/> Proper Body Mech |
| | <input checked="" type="checkbox"/> Stretching | <input type="checkbox"/> C-Traction | <input type="checkbox"/> Treadmill | <input checked="" type="checkbox"/> HEP |
| | <input type="checkbox"/> Massage | | | |

Andre Bassig, RPT
077500.1


Richard V. Escand, RPT
077887.1

Gesell Arbozo, RPT
079141.1

, RPT

Pain Relief Center
52 -54 Dolson Ave
Middletown, N.Y. 10940
Office: (845) 342-0000
Fax: (845) 342-2739

DISABILITY CERTIFICATE

DATE: 9/7/06

This is to certify that my patient, Justin Geraben

Has been under my professional care and is/was totally

incapacitated from Sept 1 through Oct 1

Remarks:

Diagnosis: Acute traumatic Cervical trauma

Prognosis: Good



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Pain Relief Center
52 - 54 Dolson Ave
Middletown, N.Y. 10940
Office: (845) 342-0000
Fax: (845) 342-2739

DISABILITY CERTIFICATE

DATE: 9/28/06

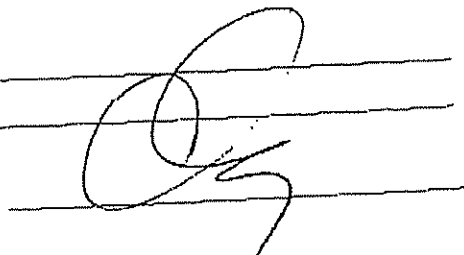
This is to certify that my patient, Charles Graham

Has been under my professional care and is/was totally
incapacitated from 8/28/06 through 10/9/06

Remarks: NO WORK -

Diagnosis: Neck - WB - SH PAIN

Prognosis: Good



Handwritten note:
paid 9/28/06 10500.50

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**MIDDLETOWN PHYSICAL MEDICINE & REHABILITATION, P.C.**

54 Dolson Avenue Suite 300 Middletown, NY 10940 Tel: (845) 343-0292 Fax: (845) 342-2739

INITIAL PHYSICAL MEDICINE EVALUATION

PATIENT: Chatie Graham
DATE OF EXAM: August 31, 2006
DATE OF ACCIDENT: August 26, 2006

HISTORY OF PRESENT CONDITION:

Ms. Chatie Graham is a 41-year-old right-handed female who states that she was involved in a motor vehicle accident as a restrained driver who was rear-ended on 8/26/06. She denies head trauma or loss of consciousness sustained in the course of the accident. During the impact, she hit her left shoulder forcefully against the driver's side door. Following the accident, she was brought by ambulance to St. Luke's Hospital. There she received x-rays of the cervical spine and the left shoulder and was then released. As her symptoms persist, she now comes under my care.

CURRENT COMPLAINTS:

The patient is presently complaining of severe neck pain and left shoulder pain, and markedly diminished mobility. She also complains of swelling of the left parascapular muscles. Neck pain radiates down the left upper extremity to the mid-arm and also into the left chest wall. In addition, she experiences numbness in her left hand. She complains of mid-back pain and she also complains of low back pain radiating down the left lower extremity to her calf associated with numbness.

She denies nausea, vomiting, dizziness, loss of visual acuity, or bowel or bladder difficulties.

PAST MEDICAL HISTORY:

She fell down the stairs in 1998 injuring her right knee and sustaining a ligament tear, which required a surgical repair.
Hypertension

MEDICATIONS:

Anti-hypertensive medications
Ibuprofen 600 mg q6h
Flexeril 10 mg tid

ALLERGIES:

No known drug allergies

SOCIAL HISTORY:

Denies the use of tobacco or excessive alcohol.

Ch
M
ae

Miriam F. Kanter, M.D., P.M.R. Board Certified Physiatrist

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Patient: Chatic Graham

-2 -

Date: August 31, 2005**OCCUPATIONAL HISTORY:**

She works as a computer technician and has been unable to return to work since the accident occurred.

PHYSICAL EXAMINATION:

Well-nourished female who ambulates with an antalgic gait featuring a guarded posture. Cervical spine examination reveals severe tenderness to palpation and myospasms of the right-sided cervical spinal muscles. There is an effusion in the right parascapular area. There are trigger points in the thoracic paraspinal muscles. Cervical spine range of motion study shows forward flexion to 5/50°, extension to 2/60°, left rotation to 3/80°, right rotation to 0/80°, left and right lateral flexion to 5/45° bilaterally. Cervical compression test is positive for pain radiating to the right shoulder. Cervical distraction is negative.

Left shoulder examination reveals an effusion about the shoulder. Shoulder range of motion study shows forward flexion to 60/180°, abduction to 90/180° and internal and external rotation to 30/90°. There is weakness of the rotator cuff musculature rated at 4-/5. Impingement and Drop Arm tests are positive.

Lumbar spine examination reveals tenderness to palpation and myospasms of the lumbar paraspinal muscles bilaterally. Lumbar spine range of motion study shows forward flexion to 70/90°, extension to 20/30°, lateral flexion and rotation to 20/30° bilaterally. Nachlas sign is positive bilaterally, Straight Leg Raising sign is negative.

NEUROLOGICAL EXAMINATION:

Sensation is intact in the bilateral lower extremities. Strength is diminished for the left shoulder including the rotator cuff and deltoid muscles and is otherwise intact. Deep tendon reflexes are normoactive and symmetric throughout.

DIAGNOSTIC IMPRESSION:

1. Cervical radiculitis
2. Lumbar radiculitis
3. Left shoulder derangement
4. Thoracic myofasciitis

DISCUSSION/PLAN:

1. Physical therapy two to three times a week consisting of stretching and strengthening exercises, heat pack, cold pack, ultrasound and TENS, therapeutic massage and myofascial release and gentle spine mobilization and traction.

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Patient: Chatie Graham

- 3 -

Date: August 31, 2006

2. Home exercise program.
3. I have prescribed a shoulder sling in order to immobilize the left arm. The patient is wearing a soft cervical collar, which she will continue.
4. I have recommended icing the neck at regular intervals, 20 minutes on followed by 20 minutes off.
5. Trigger point injections today (see Trigger Point sheet).
6. A follow-up physiatric evaluation is recommend within four weeks.



MIRIAM KANTER, M.D.

Board Certified, Physical Medicine & Rehabilitation

MK:ml

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**MIDDLETOWN PHYSICAL MEDICINE & REHABILITATION, P.C.**

54 Dolson Avenue Suite 300 Middletown, NY 10940 Tel: (845) 343-0292 Fax: (845) 342-2739

FOLLOW UP PHYSICAL MEDICINE EVALUATION

PATIENT: Graham Chatie
DATE OF EXAM: October 9, 2006
DATE OF ACCIDENT: August 26, 2006

HISTORY OF PRESENT CONDITION:

Ms. Chatie Graham is a 41-year-old right-handed female who was involved in a motor vehicle accident as a restrained driver on 8/26/06. Since the accident occurred, she has complained of neck pain radiating down the left upper extremity to her wrist. She also complains of low back pain, which radiates down the left lower extremity to her ankle.

MEDICATIONS:

Ibuprofen 600 mg tid

PHYSICAL EXAMINATION:

Well-nourished female who ambulates with an antalgic gait featuring a guarded posture. Lumbar spine examination reveals tenderness to palpation and myospasms of the paraspinal musculature. Cervical and lumbar spine range of motion are diminished. Cervical distraction test is negative while cervical compression test is positive. Nachlas sign is positive bilaterally. Straight Leg Raising sign is negative.

NEUROLOGICAL EXAMINATION:

Sensation is intact in the bilateral upper and lower extremities. There is weakness rated at 4/5 for the left deltoid, biceps and triceps. Strength is otherwise intact. Deep tendon reflexes are normoactive and symmetric throughout.

DIAGNOSTIC IMPRESSION:

1. Cervical radiculitis
2. Lumbar radiculitis

DISCUSSION/PLAN:

1. Physical therapy two to three times a week consisting of stretching and strengthening exercises, heat pack, cold pack, ultrasound and TENS, therapeutic massage and myofascial release and gentle spine mobilization and traction.
2. Home exercise program.
3. I am scheduling the patient for EMG/NCV evaluation of the upper extremities to evaluate for a radiculopathy. There is strong clinical evidence to suggest the presence of a left sided cervical radiculopathy which has not improved or resolved with conventional therapeutic measures to date. The patient may be a candidate for

Miriam E. Kanter, M.D., P.M.R. Board Certified Physiatrist

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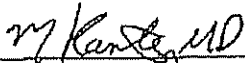
Patient: Chatie Graham

- 2 -

Date: October 9, 2006

cervical epidural injections dependent upon the results of these electro-diagnostic studies.

4. The patient saw a neurosurgeon, Dr. Fraser who also recommended EMG/NCV studies of the upper extremities.
5. A follow-up physiatric evaluation is recommended within three weeks.



MIRIAM KANTER, M.D.

Board Certified, Physical Medicine & Rehabilitation

MK:ml